IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.337 OF 2000
IN
COMPANY PETITION NO.410 OF 1999

M/s.VLS Finance Limited .. Appellant.
V/s.
M/s.Kedia Chemical Ind. Ltd. .. Respondent.

Mr.R.D. Dhanuka i/b. Anita Dhanuka for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 31ST AUGUST, 2004.

P.C. :

Heard Mr.R.D. Dhanuka, the learned counsel for the appellant.

2. The learned counsel for the appellant submits that the learned company Judge in a very cursory manner dismissed the company petition seeking winding up of the respondent-company. He also invited our attention to the order dated November 24, 2000 passed by the Bombay City Civil Court holding that S.C. Suit No.5662 of 1997 could not be tried by that court. The learned counsel submitted that to the appellants knowledge the respondent has neither challenged the order dated November 24, 2000 passed by the Bombay City Civil Court in S.C. Suit No.5662 of 1997 nor has filed any other suit. The learned

counsel submitted that there was no legal defence in opposition to the company petition and there is no challenge to the authenticity and legality of the documents executed between the parties.

3. Nobody appears for the respondent.

4. Having considered the submissions of the learned counsel for the appellant, particularly the aspect that Suit No.5662 of 1997 wherein the respondent challenged the authenticity and legality of the documents entered between the parties has been disposed of by the Bombay City Civil Court for want of jurisdiction, we are satisfied that the company petition requires reconsideration by the learned company Judge.

5. We, accordingly, set aside the order dated December 13, 1999 passed by the learned company Judge and restore the company petition No.410 of 1999 for fresh consideration in accordance with law.

6. Since the respondent has not chosen to appear, the appellant to bear its own costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)